

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

FERNANDO GASTELUM,

Case No. 1:23-cv-00472-JLT-SKO

Plaintiff,

v.

**ORDER DIRECTING SERVICE BY THE
UNITED STATES MARSHALS SERVICE
WITHOUT PREPAYMENT OF COSTS**

HIE RIVER PARK LLC,

Defendant. /

In view of the receipt of completed service documents (*see* Doc. 15), pursuant to Federal Rule of Civil Procedure 4(c), it is HEREBY ORDERED that:

1. For **each** defendant to be served, the Clerk of the Court is directed to forward the following documents to the United States Marshals Service:
 - a) One completed and issued summons;
 - b) One completed USM-285 form;
 - c) One copy of the First Amended Complaint filed June 8, 2023, plus an extra copy for the Marshals Service; and
 - d) One copy of this order, plus an extra copy for the Marshals Service.
2. Within ten days from the date of this order, the Marshals Service is directed to notify defendant **Hie River Park LLC** (d/b/a Holiday Inn Express Fresno Riverpark) of the commencement of this action and to request a waiver of service in accordance with the provisions of Fed. R. Civ. P. 4(d) and 28 U.S.C. § 566(c):

- 1 3. The Marshals Service shall file returned waivers of service as well as any requests
2 for waivers of service that are returned as undelivered as soon as they are received.
- 3 4. If a waiver of service is not returned by the defendants within thirty days of the date
4 of mailing the request for waiver, the Marshals Service shall:
 - 5 a) Personally serve process and a copy of this order upon the defendant pursuant
6 to Rule 4 of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c).
 - 7 b) Within ten days after personal service is effected, the Marshals Service shall
8 file the return of service for the defendant, along with evidence of any
9 attempts to secure a waiver of service of process and of the costs subsequently
10 incurred in effecting service on said defendant. Said costs shall be
11 enumerated on the USM-285 form and shall include the costs incurred by the
12 Marshals Service for photocopying additional copies of the summons and the
13 First Amended Complaint and for preparing new USM-285 forms, if
14 required. Costs of service will be taxed against a personally served defendant
15 in accordance with the provisions of Fed. R. Civ. P. 4(d)(2).
- 16 5. **If the defendant waives service, they are required to return the signed waiver to**
17 **the Marshals Service. The filing of an answer or a responsive motion does not**
18 **relieve a defendant of this requirement, and the failure to return the signed**
19 **waiver may subject a defendant to an order to pay the costs of service pursuant**
20 **to Fed. R. Civ. P. 4(d)(2).**
- 21 6. Once the defendant either waives service or is personally served, that defendant is
22 required to respond to the First Amended Complaint.

23
24 IT IS SO ORDERED.

25 Dated: October 13, 2023

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE